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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/564,911 | 01/17/2006 | Johannis Friso Rendert Blacquiere | NL030897 | 5339 |
| 24737 7590 03/20/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510 | | | | |
| EXAMINER PENDLETON, DIONNE | | | | |
| ART UNIT 2627 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,911

Applicant(s)

BLACQUIERE ET AL.

Examiner

DIONNE H. PENDLETON

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1-8** are rejected under 35 U.S.C. 102(e) as being anticipated by **Ohata (U.S. 6,469,978)**.

Regarding claims 1 and 8,

Ohata teaches a device for recording information in blocks having logical addresses, which device comprises:

recording means ("**3**" in **figure 13**) for recording marks in a track on a record carrier representing the information,

control means (**8**) for controlling the recording by locating each block at a physical address in the track, the control means operating to control, thereby comprising

addressing means (**6**) for translating the logical addresses into the physical addresses and vice versa in dependence of defect management information,

means for detecting defects ("**4**" in **figure 13**), interpreted as corresponding at least in part to the "defect management means" (**32**) for detecting defects and means for maintaining the defect management information in defect management areas on the record carrier (**column 10:29-41**), the defect management information including assignment information indicative of assignment of physical addresses in first parts of the track to at least one user data area (**column 7:51-column 8:5**), and assignment of physical addresses in second parts of the track to defect management areas (**column 8:29-36; also see figure 2**), and the defect management information including remapping information indicative for translating a logical address initially mapped to a physical address exhibiting a defect to an alternate physical address in a defect management area (**column 10:44-47**), and

assignment means (**combined operations of "6" + "7" in figure 13**) for adapting the assignment information in dependence of a detected defect by assigning an additional physical address range to an additional defect management area, the additional physical address range having a starting physical address near the detected defect (**see additional sectors in spare area, corresponding to additional physical addresses in figure 4; also see figure 2 wherein spare area is disposed "near" user data area**).

Regarding claim 2,

Ohata teaches the device as claimed in claim 1, wherein the assignment means are for assigning the additional physical address range including the detected defect **(column 8:33-36).**

Regarding claim 3,

Ohata teaches the device as claimed in claim 1, wherein the assignment means are for assigning the additional physical address range having a predefined size **(see embodiment 1)**, or a size based on defect parameters of a preceding or following recording area **(column 10-48-56)**, in particular the amount and distribution of defect management areas already assigned, the amount of user area between the additional physical address range and a preceding or following defect management area, and/or detected defects **(also see column 10:65 – column 11:1-25).**

Regarding claim 4,

Ohata teaches the device as claimed in claim 1, wherein the assignment means are for assigning the additional physical address range having a size including at least a first detected defect, a second detected defect and the physical addresses between the first and second detected defect **(column 8:29-36 teaches that detected defects are recorded in respective sectors of the spare area. Adjacent sectors inherently have some degree of free space there-between, said free space being directly or indirectly accounted for in the address information of the defect list).**

Regarding claim 5,

Ohata teaches the device as claimed in claim 1, wherein the assignment means are for assigning the additional physical address range to a range of physical address in a part of the track originally assigned to the at least one user data area, in particular the part of the track being a free space in the user data area **(column 9:23-34)**.

Regarding claim 6,

Ohata teaches the device as claimed in claim 1, wherein the device comprises contiguous recording detection means for detecting a series of blocks having a continuous logical address range to be recorded in a corresponding allocated physical address range **(column 10:19-24, 44-47, and column 13:8-20)**, and the assignment means are for assigning the additional physical address range outside the allocated physical address range **(see, column 13:40-50)**.

Regarding claim 7,

Ohata teaches the device as claimed in claim 6, wherein the contiguous recording detection means are for detecting a continuous recordings indicator in a recording command, or for detecting the series of blocks representing real-time information, in particular video information, or for detecting file system information for detecting that the series of blocks constitute a file **(Ohata teaches a device for use with conventional optical discs having data thereon or requiring data to be written thereto, in which case user data areas having data written therein will be indicative of continuous recordings as claimed)**.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claim 9** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 9 is drawn to a "program" *per se* as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in tangible computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed tangible computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the

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computer program's functionality to be realized.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIONNE H. PENDLETON whose telephone number is (571)272-7497. The examiner can normally be reached on 10:30-7:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dionne H Pendleton/
Examiner, Art Unit 2627

/Wayne R. Young/
Supervisory Patent Examiner, Art Unit 2627